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CENTRAL FAX CENTERSer. No. 09/847,644
Atty. Ref. No. Proflowers-P2-01
Art Unit 2625

JAN 12 2007

I. REMARKS

Claims 1, 7, 9-11, 17, 19-29, 35-39, 45, 47-53, 59-63, and 69-79 have been rejected pursuant to 35 U.S.C. Sec. 102. The Examiner contends that Barad anticipates each of these claims, as is more precisely stated in the Office Action.

The Office Action is believed to be unclear as to what the Examiner contends is an ornamental design in Barad, where that ornamental design is located in Barad, and what consists of Barad's waybill. If the rejection is maintained, pursuant to 35 U.S.C. Sec. 132, the Examiner is requested to provide the foregoing information.

As best as can be determined from the Office Action, the rejection is respectfully traversed: Either Barad has not been shown to be prior art or Barad does not show all claim requirements.

If the Examiner is contending that Applicant's claimed waybill should be construed to correspond to Barad's entire sheet 82, then Barad has not been shown to be prior art over the September 8, 1998, filing date of the parent application from which the instant case claims priority, e.g., see Fig. 2 of Ser. No. 08/149,650, the originally filed claim 2 (which refers to a "customized element"), and the specification, e.g., at page 8, line 35, which refers to a "graphical image."

If the Examiner is instead contending that Applicant's claimed waybill should be construed to correspond to Barad's label 84, as Applicant believes is more appropriate, then Barad does not show the waybill, including the ornamental design. Barad's sheet in Fig. 27 shows label 84, but not Applicant's claimed waybill, including the ornamental design.

In either case, the PTO has not shown that every requirement of these claims is shown in art that is prior, and thus, the statutory anticipation rejection is believed to be improper.

Claims 2-6, 12-16, 18, 30-34, 40-44, 46, 54-58, and 64-68 have been rejected pursuant to 35 U.S.C. Sec. 103. The Examiner contends that Barad is a prior art showing that

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shows, or renders obvious, all requirements in each of these claims, as is more precisely stated in the Office Action.


In response, the rejection is respectfully traversed. As mentioned above, either Barad has not been shown to be prior art or Barad does not show all claim requirements. The obviousness rejection builds on the error discussed with regard to the Sec. 102 rejection.

The Examiner has also relied on "official notice," and if the rejection is maintained, Applicant hereby requires a reference or the Examiner's declaration, at least so that Applicant can determine whether, under *Graham v. Deere*, there is a proper reason to combine.

If the prosecution of this case can be in any way advanced by a telephone discussion, the Examiner is requested to call the undersigned at (312) 240-0824.

APPLICANT CLAIMS LARGE ENTITY STATUS. The Commissioner is hereby authorized to charge any fees associated with the above-identified patent application or credit any overcharges to Deposit Account No. 50-0235, and if any extension of time is needed to reply to said office action, this shall be deemed a petition therefore. Please direct all communication to the undersigned at the address given below.

Respectfully submitted,



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